

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Fiscal Note

BILL NUMBER: House Bill 615 (Third Edition)

SHORT TITLE: Remove Revocation for DWLR.

SPONSOR(S): Representatives Ramsey, Baskerville, and Turner

BILL SUMMARY:

HB 615 repeals the additional license revocation requirements upon conviction of driving while license revoked (DWLR) and moving violation while license revoked, except for offenses in which the underlying revocation is for an impaired-driving conviction or violation of ignition interlock and limited driving privilege restrictions.

Section 1 amends existing G.S. 20-28(a) to require that if the person's drivers license was revoked for (i) an impaired driving offense, (ii) violating a limited driving privilege, or (iii) violating a restriction relating to the installation or use of an ignition interlock, upon conviction of the driving while license revoked violation, the person's license shall be revoked for an additional year for the first offense, two years for the second offense, and permanently for a third or subsequent offense, consistent with current law. However, Section 1 repeals these additional revocation periods for driving while license revoked following conviction of another underlying offense. The existing Class 1 misdemeanor criminal penalty is maintained.

Section 2 amends G.S. 20-28.1(a) to specify that the following violations do not constitute motor vehicle moving offenses which require additional revocation if committed while a person's driving privilege is revoked or suspended:

- driving while license revoked, except those offenses which require additional revocation periods per Section 1;
- driving without reclaiming a license; and,
- driving without a regular driver license.

Section 3 makes conforming changes or other changes to limited driving privilege eligibility.

HB 615 becomes effective June 1, 2014, and applies to offenses committed on or after that date.

ASSUMPTIONS AND METHODOLOGY:

Division of Motor Vehicles

According to the Division of Motor Vehicles (DMV), the following DWLR and moving violation while license revoked offenses will continue to require additional revocations under HB 615:

- G.S. 20-13.2 – Underage Impaired Driving;
- G.S. 20-16(a)(8b) – Driving While Impaired (DWI) on Military Base;
- G.S. 20-16.2 – Implied Consent/Refusal of Chemical Analysis;
- G.S. 20-16.5 – Civil Revocation for an Implied Consent Offense;
- G.S. 20-17.2(a)(2) – Driving While Impaired (DWI);

- G.S. 20-17(a)(12) – 2nd or Subsequent Transporting of Open Container After Consuming;
- G.S. 20-138.5 – Habitual Impaired Driving;
- G.S. 20-17.8 – Violations of Restrictions;
- G.S. 20-179.3(j) – Violation of Limited Driving Privilege following Impaired Driving Offense;
- G.S. 20-17(a)(9) – Death by Vehicle involving DWI;
- G.S. 20-16(a)(7) – Out-of-State DWI;
- G.S. 20-17(a)(1) – Manslaughter (or negligent homicide) resulting from the operation of a motor vehicle and associated with DWI;
- G.S. 20-17(a)(3) – Felony committed with the use of a motor vehicle and associated DWI; and ,
- G.S. 20-17(a)(11) – Conviction of assault with a motor vehicle and DWI-associated.

However, the following DWLR and moving violation while license revoked offenses would no longer result in subsequent revocations/suspensions:

- Driving While License Suspended;
- Moving Violation While License Suspended;
- Point Accumulation;
- Convictions under G.S. 20-141.4 - felony and misdemeanor death by vehicle, felony serious injury by vehicle, aggravated offenses, and repeat felony death by vehicle;
- Assault with a Motor Vehicle (Out-of-State; non-DWI);
- Court Order to Not Operate;
- Court Suspension;
- Death by Vehicle (Non-DWI);
- Dropout Prevention Suspension;
- Failure to Appear in Court;
- Failure to Pay Fine;
- Fail to Comply with Out-of-State Citation;
- Failed Road Test for Re-examination;
- Felony Elude Arrest (Non-DWI);
- Give Alcohol to Underage Person;
- Hit and Run Personal Injury/Death (Non-DWI)
- Improper Use of Operator License;
- Larceny of a Motor Vehicle;
- Larceny of Motor Fuel;
- Lose Control/Lose your License;
- Making or Allowing False Application;
- Manslaughter (Non-DWI);
- Misdemeanor Elude Arrest;
- Out- of-State Conviction (Non-DWI);
- Possession/Explosives on Educational Property/Provisional Licensee;
- Prearranged Racing or Speed Competition;
- Provisional Licensee Multiple Violations (within 12 months);
- Repeat Felony Death by Vehicle (Non-DWI);

- Restoration or Service Fees Required;
- Speeding >55 mph and Exceeding Speed Limit by >15 mph;
- Speeding >55 mph, Exceeding >15 mph, and Reckless Driving;
- Speeding >55 mph and Aggressive Driving (multiple in 12 months);
- Speeding >55 mph and Reckless/Aggressive Driving (multiple in 12 months);
- Speeding in excess of 80 mph;
- Speeding in excess of 80 mph and Reckless Driving;
- 2nd Reckless Driving (multiple within 12 months);
- 2nd Reckless/Aggressive Driving (multiple within 12 months);
- Speeding to Elude Arrest;
- Two Convictions of Speeding within 12 Months
- Unsatisfied Judgment;
- Violation of Probation; and,
- Willful Speed Competition.

Requested queries of the State Automated Driver License System (SADLS) for convictions occurring during calendar year 2012 indicate a total of 34,208 convictions of driving while license revoked (23,635) and commission of a moving violation while license revoked (10,573) which resulted in 1st, 2nd, or 3rd revocation periods and which were not associated with an underlying offense involving impaired driving. Conversely, a total of 20,878 DWLR and moving violation convictions were directly associated with an underlying offense of impaired driving. However, the type of underlying suspension could not be directly attributed for a total of 10,856 reported convictions over the same period.

Because restoration fees (G.S. 20-7(i1)) apply to license reinstatement and do not accumulate based on multiple revocations, Fiscal Research does not anticipate a significant impact on restoration fee collections. However, refunds are not currently issued for cases in which a person has paid the base \$50.00 restoration fee prior to the underlying license reinstatement date and subsequently commits a DWLR or moving violation while license revoked offense before reinstatement. Consequently, another \$50.00 restoration fee is then payable for license reinstatement. Similarly, restoration fees are assessed for reinstatement of driving privileges for out-of-state drivers in which a DWLR offense is committed during operation within the State. Therefore, repeal of the additional revocation periods may result in reduced restoration fees; however, any resultant impacts should be insignificant.

While the number of hearings attributable to DWLR and moving violation while license revoked convictions following offenses not involving impaired driving is unknown, a reduction in requested hearings is anticipated due to the repeal of additional revocation requirements. Therefore, workload reductions are expected for the 37 Hearings Officers responsible for conducting DWLR/Moving Violation hearings. However, based on current reported caseloads (150 cases for 1st offender DWLR/Moving Violation and 561 multiple DWLR/Moving Violation), Fiscal Research does not anticipate a potential reduction in staffing requirements.

Department of Transportation, Information Technology Section

According to the Department of Transportation, Information Technology Section (DOT-IT), the following modifications to the State Automated Driver License System (SADLS) are required:

- Creation of a new driving while license revoked (DWLR) adjudication process which accounts for conviction, suspension, limited driving privilege, and ignition interlock histories to determine the application of a DWLR revocation/suspension. New codes table groups are required to track conviction codes and suspension event identifiers.
- Programming for the limited driving privilege eligibility module to check for violations occurring during a limited privilege and convictions under G.S. 20-28.2(a) involving impaired driving.
- Programming for the “Driving No Operators License” adjudication process to repeal the initiation of a suspension.

Because the current Next Generation Secure Driver License System (NGSDLS) project is implementing a graphic user interface of the SADLS mainframe system, code changes to affected mainframe programs and screens must also be applied to the NGSDLS. To accommodate the above modifications, DOT-IT projects a combined total of 1,996 development labor hours at an estimated total cost of \$217,880.

Administrative Office of the Courts

This bill would require AOC to create new offense codes for the specific triggering offense for DWLR so that the DMV will know the length of time to revoke an individual’s driver license. AOC may also need to update forms to reflect these changes. While the exact cost for these modifications cannot be determined, AOC anticipates these to be negligible.

SOURCES OF DATA: Division of Motor Vehicles; DOT Information Technology Section; Administrative Office of the Courts

TECHNICAL CONSIDERATIONS:

AOC raises the possibility that a *Blakely* issue will arise regarding whether the revocation itself is perceived as a punishment or if it is an administrative type of sanction. If it is seen as a punishment, *Blakely* may insist that the findings would need to be made by a jury, presumably requiring these cases to be heard in Superior Court rather than District Court.

AOC notes that in amending the bill on p. 1, lines 18-19. p. 2, lines 23-24, and p. 3, lines 1-2, the bill now reads: “any restriction relating to the installation or use of an ignition interlock pursuant to G.S. 20-17.8[.]” As it is currently written, this provision would not capture violations of G.S. 20-17.8 that have nothing to do with the actual installation or actual use of the ignition interlock device, such as if an individual has the device properly installed and activates the device according to the requirements, but then consumes alcohol after having activated the device—perhaps while driving—and therefore violates the blood alcohol concentration restrictions that were part of his or her limited privilege. If it is the intent that this type of scenario is to be included in this provision, perhaps the language should read “any restriction of G.S. 20-17.8,” as is the case with the other statutory references in the same sentences.

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